

# Memorandum

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To : **Henrietta Peaker Project Siting Committee:**  
Arthur H. Rosenfeld, Presiding Member

From : **California Energy Commission** - Lisa DeCarlo, Staff Counsel  
1516 Ninth Street Bob Eller, Project Manager  
Sacramento, CA 95814-5512

Subject : **Comments on the Presiding Member's Proposed Decision for the Henrietta Peaker Project—01-AFC-18**

On January 31, 2002, the Presiding Member's Proposed Decision (PMPD) for the Henrietta Peaker Project was released. The Notice of Availability directed governmental agencies and members of the public to file written comments by March 4, 2002. Staff respectfully submits the following comments:

## ***PROJECT DESCRIPTION***

- On page 17, "Cooling Water: None" should be replaced with "Project Water Use: 160 acre-feet."

## ***AIR QUALITY***

- On page 7, under Commissioning & Startup (Power Plant Site column): Strike "Insignificant" and insert "MITIGATION"
- On page 20, under Nitrogen Dioxide (NO<sub>2</sub>; also generically known as NO<sub>x</sub>): Strike "Minimum" and insert "Operational"
- On page 20, under Nitrogen Dioxide (NO<sub>2</sub>; also generically known as NO<sub>x</sub>): List mitigation measures that apply, as was done for the other pollutants.
- On page 21, under Carbon Monoxide (CO) (first mitigation): Strike "Condition:" and insert "Conditions: **AQ-4** &"
- On page 21, under Particulate Matter 10 Microns (PM<sub>10</sub>) (first mitigation): Strike "Conditions: **AQ-18** and" and insert "Condition:"
- On page 21, under Sulfur Dioxide (SO<sub>2</sub>) (first mitigation): Strike "6.0 ppm" and insert "of 0.33 lbs/hr"
- On page 21, under Sulfur Dioxide (SO<sub>2</sub>) (second mitigation): Strike "**AQ-2**" and insert "**AQ-C3**"
- On page 22, under Commissioning & Startup (PROJECT column): Strike "Insignificant" and insert: "MITIGATION"

- On page 22, under Commissioning & Startup (line 6): Strike “Therefore, there are no significant air quality impacts from facility commissioning.”
- On page 22, under Commissioning & Startup (line 10): Strike “Thus, there is no significant air quality impacts from facility startup” and insert: “The startup emissions are limited by the District. Additionally, the commissioning and startup emissions are included in the District’s emission offset requirements, so that the applicant will be providing emission offsets to mitigate the one-time commissioning emissions and ongoing startup emissions.”

MITIGATION:

- ☒ The Project Owner shall provide emission offsets for NO<sub>x</sub>, VOC, PM<sub>10</sub> and SO<sub>2</sub> emissions: Conditions **AQ-C3 & AQ-2**.
- ☒ The Project Owner shall control the startup and shutdown emissions from the two turbines to meet combined emission limits of 15.4 lbs of NO<sub>x</sub> as NO<sub>2</sub>, 15.4 lbs of CO and 1.4 lbs of VOC in any one hour. Condition: **AQ-17**.”
- On page 25, line 3: After “pp.” insert “3.1-”
- On page 26, under Ozone (third mitigation): After “Condition” insert “s”. After “AQ-22” insert “& AQ-2.”
- On page 27, after first partial paragraph: List the mitigation measures that apply to Nitrogen Dioxide, as was done for the other criteria pollutants.
- On page 27, under Carbon Monoxide (first mitigation): Strike “Condition:” and insert “Conditions: AQ-4 &”
- On page 27, under Particulate Matter – PM<sub>10</sub> (line 5): Strike “severe” and insert “serious”
- On page 28, Sulfur Dioxide, second mitigation: Strike “& AQ-2”.
- On page 29, under Volatile Organic Compounds (second mitigation): After “Condition” strike “s”. After: “AQ-C3” strike “& AQ-2”.
- On page 31, under AQ-C2 (line 17): Italicize “Diesel Construction Equipment Mitigation Plan”
- On page 32, under AQ-C2, line (“b. Purchase and use of ultra-low-sulfur fuel (15 ppm).”) and after: Revise “b” to “2” and move left. Then replace item letters “c” and “d” below with “a” and “b”.
- On page 32, under AQ-C2, line (“2. Installation of CDPF”) and after: Replace “2” with “3”. Then on next line unbold and indent “a. The suitability of the use of CDPFs is to be determined by a qualified mechanic or engineer who must submit a report to the CPM for approval.”
- On page 32, under AQ-C2, line “3. Construction equipment engine idle time” and after: Replace “3” with “4”. Then on next line replace “b” with “a” and unbold and indent sentence. Then add line after sentence

- On page 34, under District Preliminary Determination of Compliance Conditions (line 10): After “SJVAPCD Permit No. Unit” strike “c” and insert “C”
- On page 34, under AQ-2 (line 4): Strike “30, 210” and insert “30,210” (no extra space)
- On page 34, under AQ-2 (line 5): Strike “Section 4.2.4”
- On page 34, under AQ-2 (line 6): After “ratio of 1.4:1” strike: “at” and insert: “and”
- On page 38, under AQ-18 (line 2): Strike “**AQ-21**” and insert: “**AQ-19**”
- On page 40, under AQ-29 (line 2): Strike “O2” and insert: “O<sub>2</sub>” (subscript)
- On page 42, under AQ-39 (line 2): After “a period of” insert: “at least”
- On page 48, under Local: Include the following local regulations: 1080, 1081, 2010, 2520, 2540, 4001, 4101, 4102, 4201, 4202, 4301, 4701, 4703, 4801, 8010, 8011, 8020, 8021, 8030, 8031, 8041, 8051, 8060, 8061, 8070, 8071, 8081.

## **BIOLOGY**

- On page 49, under Protected Species Impact: Correction and clarification is required. The PMPD states: “The power plant site and the transmission line route and pipeline corridor are farmland or un-vegetated soil and devoid of biological resources. Thus there will be no direct, on-site biological resource impacts.” This is incorrect. While it is true that these areas do not contain any native or sensitive plant species, and no sensitive animal species, it is not accurate to state that these areas are *devoid* of biological resources.
- On page 49, under Short-term Construction Disturbance: Correction and clarification is required. The PMPD states: “The power plant site is un-vegetated soil and devoid of biological resources.” See comment above.
- On page 49, under Short-term Construction Disturbance second sentence: “6.7 acres” should be changed to “11.7 acres.”
- On page 52, first sentence: Correction and clarification is required. The PMPD states: “The project site is un-vegetated and devoid of biological resources.” See first comment.
- On page 52, third sentence: “6.7 acres” should be changed to “11.7”
- On page 52, first paragraph: Strike the sentence reading “Thus, there will be no on-site disturbance of biological resources during construction of the power plant or associated pipelines and transmission facilities.”

## **CULTURAL RESOURCES**

- On page 61, in the box at the top of the page: The second sentence states “At most, there is a low potential for discovery of some unknown resource during construction.” This statement is not supported by evidence in the record. The AFC p. 8.3-11 states that “The sensitivity of the HPP project area is *moderate* for prehistoric sites potentially eligible for inclusion on the National Register of Historic Resources (also

reflected in SA p. 3.3-6). Additionally, later data requests revealed the presence of Avenal Cutoff Road, an old roadbed that may lie under the current roadway, and which may qualify as an historic resource.

- On page 61, third paragraph under Cultural Resources-General: The paragraph concluding the introduction says “However, due to the alteration associated with farming at the site and road construction, the potential for undiscovered resources to be present at the power plant site or pipeline right-of-way appears to be very slight.”

The evidence provided by the applicant and reflected in the Staff Assessment does not support this statement. Alterations associated with farming at the site and road construction would have no bearing on the potential for undiscovered resources to be present at the power plant site or pipeline right-of-way under the previously disturbed areas. Sites may be located under the agricultural disturbance and previous roads or other sites may lie under current roads and human remains may be present whether or not an area is previously disturbed. Based on other factors outlined below there is a moderate potential for discovering cultural resources.

Based on information in the AFC, there have not been any cultural resources surveys in the project area except the survey for the AFC, therefore there would not be any identified cultural resources. Anthropological literature, (researched by staff) indicated several ancient village sites in the vicinity of the project. (PMPD p. 62, SA p. 3.3-6). In addition, the project will be located near the ancient shores of now dry Tulare Lake. Proximity to the ancient lakeshore raises the potential for encountering sites.

- On page 64, second paragraph under Ethnic Heritage: Remove the sentence reading “No Native American cultural resource sites have been identified by the Native American Heritage Commission or other Native American representatives.” This statement gives the impression that there is no Native American concern regarding this project, which is in contradiction to the testimony and the discussion on page 62 of the PMPD.

## ***GEOLOGY AND PALEONTOLOGY***

- On page 78, under Pal-4: The phrase “are likely to be found” should be changed to “have been identified”.
- On page 80, last paragraph under Pal-6: Insert “and submitted to the CPM” after “prepared”.
- On page 80, after Pal-6: insert the following condition which was included in the Staff Assessment.

**PAL-7** The project owner shall include in the facility closure plan a description regarding the potential for closure of the facility to impact paleontological resources. The conditions for closure will be determined when a facility closure plan is submitted to the CPM, twelve months prior to closure of the facility. If no activities are proposed that would potentially impact paleontological resources, then no mitigation measures for paleontological resource management are required in the facility closure plan.

The closure requirements for paleontological resources are to be based upon the Paleontological Resources Report and the proposed grading activities for facility closure.

**Verification:** The project owner shall include a description of closure activities described above in the facility closure plan.

### ***HAZARDOUS MATERIALS***

- On page 85, Storage & Use; Other Materials; first sentence of paragraph: The sentence includes materials not listed in the AFC, indicates that they are currently stored and makes reference to a refinery. Please revise to reflect the Henrietta Peaker Project.

### ***LAND USE***

- On page 91, under Agricultural Resources, in the box under Power Plant Site: Strike “Insignificant” and insert “Mitigation”.
- On page 94, third paragraph from the bottom: Insert “and 150 feet east” after “400 feet”.
- On page 96, the PMPD failed to include any of staff’s proposed conditions of certification. Staff agrees that LAND-1, as set forth in the Staff Assessment, is no longer necessary because it has already been satisfied. However, LAND-2, LAND-3, and LAND-4 are still relevant. The applicant did not object to these conditions, and no testimony was set forth declaring these conditions unnecessary. Therefore, staff respectfully requests that these conditions be included in the final Commission Decision. Because LAND-2 has been partially satisfied by the provision of the American Farmland Trust Mitigation Agreement, staff has modified it to reflect only those items still outstanding and renumbered it LAND-1. Likewise, Conditions 3 and 4 from the Staff Assessment have been renumbered LAND-2 and LAND-3 and appear exactly as set forth in the Staff Assessment.

**LAND-1:** Prior to the start of construction, the project owner shall submit an agricultural mitigation plan subject to the approval of the CPM. The agricultural mitigation plan shall include details as to how the on-site preservation of agricultural land on the subject property not converted for the power generation facility is to occur.

**Verification:** Thirty (30) days prior to site mobilization, the project owner shall provide the CPM with the finalized agricultural mitigation plan.

**LAND-2:** Prior to the start of commercial operation, the project owner shall provide to the CPM, a copy of their signed, notarized and recorded Notice, Disclosure and Acknowledgement of Agricultural Land Use Protection and Right to Farm Policies of the County of Kings, pursuant to Section 2 of Ordinance No. 546 (Right To Farm Ordinance) of the County of Kings.

**Verification:** Thirty (30) days prior to the start of commercial operation, the project owner shall provide to the CPM, a copy of their signed, notarized and recorded Notice, Disclosure and Acknowledgement of Agricultural Land Use Protection and Right to Farm Policies for the County of Kings.

**LAND-3:** Prior to the start of construction, the project owner shall provide to the CPM a site plan with dimensions showing the locations of the proposed buildings and structures in compliance with the minimum yard area requirements (setbacks) from the property line as stipulated in Section 406.D. *Yard requirements* of the Kings County Zoning Ordinance.

**Verification:** Thirty (30) days prior to the start of construction, the project owner shall provide to the CPM for approval, a site plan showing the HPP project in yard area compliance with Section 406.D. of the Kings County Zoning Ordinance.

## ***NOISE***

- On page 99, under Loudness/Time of Day, Operation: Remove last sentence reading “Operational sound levels at local residences are estimated to conform to the Kings County noise limitation of not more than a 5 dBA increase”. In its place insert the following: “Operational sound levels at local residences are estimated to conform to the CEC noise limitation of not more than a 5 dBA increase, and will comply with Kings County noise standards.”
- On page 100, under Loudness/Time of Day, second paragraph: Remove sentence reading “Construction activity at night that would generate an hourly average noise level exceeding 55 dBA Leq outside a residence would cause noise levels inside to exceed 35 dBA even when windows are closed.” In its place insert the following: “Construction activity at night that would generate an hourly average noise level exceeding 45 dBA Leq outside a residence would cause noise levels inside to exceed 35 dBA when windows are open.”
- On page 100, last paragraph under Loudness/Time of Day: Insert “without mitigation” after “is 47 dBA.”
- On page 105, last bullet under Noise-2: Remove “if the noise is project related.”
- On page 105, Noise-5 should be renumbered Noise-3.
- On page 106, Noise-6 should be renumbered Noise-4.
- On page 106, under Noise-6, first paragraph, last sentence: insert “45” before “dBA”.

## ***SOCIOECONOMICS***

- On page 113, under Employment, box denoting impacts under Power Plant Site should be changed from “none” to “insignificant”.
- On page 114, under Economy/Government Finance, box denoting impacts under Power Plant Site should be changed from “none” to “insignificant”.

- On page 116, under Schools: remove sentence reading “Upon operation, an estimated one to four new families may enter the local project area.” There is no testimony in the record supporting this statement.
- On page 120, remove sentence starting with “The Benicia Unified School District...”

### ***TRAFFIC AND TRANSPORTATION***

- On page 121, under Mitigation: Remove phrase “peak commute.” Add “**and TRANS-7**” after “**TRANS-6**”. Make these same changes to the Mitigation section on page 125.
- On page 129, under TRANS-7: Change first sentence to read, “Prior to the start of construction, the project owner shall consult with Kings County, Fresno County, and Caltrans, and the City of Lemoore ~~and other appropriate jurisdictions~~ to prepare and submit a construction traffic control plan....”

### ***VISUAL RESOURCES***

- On page 131, under Visible Plume: Remove sentence reading “The power plant will not use evaporative cooling towers; thus, there will be no visible plumes.” In its place insert the following: “The power plant will not generate any visible exhaust plumes from the two combustion turbine generator stacks or elsewhere on the site.”
- On page 137, second paragraph under Visual Impact Significance: The PMPD references staff’s landscaping condition of certification as proposed in the Staff Assessment. Based upon comments received from GWF and discussions held during the Pre-Hearing Conference on January 4, 2002, staff revised the proposed condition to give GWF more flexibility by removing the specifications on the type and number of trees to be planted at the project site. The revised condition was filed with the Committee on January 8, 2002. Please revise the paragraph to reflect the condition as currently proposed by staff, which calls for plant species that are fast growing and that blend with the surrounding environment.
- On page 138, fourth full paragraph: In regard to staff’s landscaping proposal, the PMPD states that “There is not another orchard sufficiently nearby or tree wind breaks that would make this orchard-like mitigation appear other than out-of-place at this location.” In fact, there is a large orchard of mature fruit trees located about 0.5 mile west of KOP 4 and south of SR 198, and a long row of trees planted along the north side of SR 198 that screen views toward the NAS Lemoore. Please see the attached photographs taken during staff’s field reconnaissance. Photo #1 is the view from KOP 4 looking west along SR 198. On the left (south) is the mature fruit orchard and on the right (north) is a portion of the row of trees along the NAS Lemoore property. Photo #2 is the view from KOP 4 looking east along SR 198 toward 25<sup>th</sup> Avenue. On the left (north) are the trees along the north side of SR 198 that screen views from the highway toward NAS Lemoore.

- On page 148, first full paragraph, first sentence: delete “and plumes.” The reference to plumes should be deleted since the project does not include a wet cooling tower and the extremely high turbine exhaust temperature precludes the formation of plumes from the exhaust stacks, even under the most extreme weather conditions. (see SA p. 3.12-11 and Appendix VR-4)
- On page 149, under VIS-2 (Structure Color Plan): Insert the following language into the fourth sentence of the condition: “The plan shall be submitted sufficiently early to ensure that any pre-colored buildings, structures, and linear facilities will have colors approved and included in bid specifications for such buildings or structures, to the extent practicable.”

In the protocol, delete the sentence at the top of page 150 that begins “For any structures that are treated during manufacture...”;

Based on comments received from GWF on the SA, and during the Pre-Hearing Conference held on January 4, 2002, staff made revisions (which were filed with the Committee on January 8, 2002) to staff’s proposed condition of certification VIS-2 that are not reflected in the Committee’s version of the condition. These revisions were made by staff to address GWF’s concern that because some structures color-treated during manufacturing have already been ordered for this fast-paced project, to tie the submittal of the color plan to a time period prior to the ordering of these structures would already cause GWF to be out of compliance with the condition.

- On page 149, under VIS-2: The PMPD merges the requirements of staff’s proposed conditions of certification VIS-3 (treatment of fences and walls) in VIS-2. Staff does not object to this modification, but requests the following revisions to the protocol:
  - In the fourth bullet, delete the word “and” after the semicolon
  - In the fifth bullet, delete the period (.) and add “;and”
  - Add a sixth bullet that reads: “documentation that fences and walls for the project will comply with the applicable requirements in the Kings County zoning ordinance that relate to visual resources.”
  - In the second paragraph of the protocol, delete the sentence that begins “Fences and walls for the project...”
- On page 152, under VIS-5 (landscape screening): It is staff’s position that the project would cause a significant visual impact as viewed from KOP 5 (25<sup>th</sup> Avenue) due to its high level of contrast and scale dominance. However, staff believes that this impact can be reduced to a less than significant level with the installation of perimeter landscaping on the west and south sides of the project site. The Committee has included a landscape screening condition of certification (VIS-5) in the PMPD that differs from the one proposed by staff and agreed to by applicant.

Staff does not believe that VIS-5, as written in the PMPD, would ensure that the project’s visual impacts will be sufficiently mitigated. As included in the PMPD, VIS-5 would not necessarily require GWF to install landscaping. VIS-5 states that a plan shall be developed that “provides for *any or all of the following*, as appropriate, to screen the project from view: berms, vegetation and trees, and slats in fencing” (emphasis added). GWF could install only a berm and be in compliance with the



condition. However, staff does not believe that a berm alone would be sufficient to mitigate the visual impact to a less than significant level, and, therefore, the condition as set forth in the PMPD does not ensure that the project's impacts will be mitigated to a level below significance.

At the Pre-Hearing Conference, GWF expressed concern about tall trees on the western side of the plant site causing a conflict with the existing transmission lines. In response to comments received from GWF, staff agreed to make changes to the proposed landscaping condition of certification. These changes were set forth in staff's Response to Applicant Comments filed with the Committee on January 8, 2002. Staff requests that the first paragraph of VIS-5 in the PMPD be replaced with the first paragraph of staff's revised condition VIS-6 from the staff's Response to Applicant Comments, as set forth below:

"Prior to the start of commercial operation, the project owner shall prepare and implement an approved perimeter landscape plan to partially screen the west and south views of the power plant to the greatest extent possible. Fast growing tree species, including but not limited to evergreens, shall be used to ensure that maximum screening is achieved as quickly as possible. Plant species shall be selected that will blend the trees-landscaping into the surrounding environment. Suitable irrigation shall be installed to ensure survival of the plantings. Landscaping shall be installed consistent with the Kings County zoning ordinance."

## ***WASTE MANAGEMENT***

- On page 156, first paragraph, last sentence should read: "The handling of the project's wastewater is discussed in Water Quality." Since the wastewater will be disposed of offsite, no NPDES permit is required.
- On page 161, remove the last sentence which reads: "Implemented by the San Bernardino Fire Department/City of Redlands Fire Department, Hazardous Materials Division."

## ***WATER QUALITY***

- On page 164, last paragraph: Change "Twelve" to "Approximately twelve".
- On page 165, second paragraph: In the sentence beginning "Potentially contaminated stormwater..." strike the word "Potentially".
- On page 165, last sentence: After "and to collect and treat" insert "any contaminated".
- On page 166, second paragraph under Wastewater: In the first sentence beginning with "Potentially contaminated ("contact") storm water runoff...", delete "and parking".

On page 166, second paragraph under Wastewater: Delete last sentence reading "Storm water from parking areas which are paved for vehicular use needs to be collected and treated to remove contaminants using the oil-water separator and reverse osmosis filter treatment; the water will then be either discharged to the evaporation/percolation basin or recycled for use as process water."

- On page 169, under Water Quality-5: Last sentence before the verification section should read, “If the CPM, in consultation with the RWQCB, determines that the ground or surface water quality is being impacted by use of parking areas and roadways, the ~~COP~~ CPM, in consultation with the RWQCB, shall require the project owner to prepare a mitigation plan that shall include collection and treatment of petroleum byproducts and suspended solids.”
- On page 170, fourth line: Change “benonite” to “bentonite”.

## ***WATER RESOURCES***

- On page 173, first sentence: The phrase “the project does not require power plant cooling” should be changed to “the project requires very little power plant cooling”.

## ***ALTERNATIVES***

- On page 177, under Alternative Sites, in the box heading: Strike “Refinery”.

## ***FACILITY DESIGN***

- On page 193, third paragraph under Engineering – General: Remove second sentence reading “Some of these conditions address the roles, responsibilities and qualifications of Valero’s engineers responsible for the design and construction of the project.”
- On page 199, after first paragraph: Strike “A.)” before “The RE shall:” and insert “Protocol:”.
- On page 200, third paragraph under GEN-5: Strike “3” at the beginning of the paragraph.
- On page 200, right above the last paragraph: Strike “4” before “A: The civil engineer shall:” and insert “Protocol:”.
- On page 201, after last paragraph under Protocol: B: Strike “5” before “C: The design engineer shall:” and insert “Protocol:”.
- On page 202, after first paragraph under GEN-6: Strike “6” before “The special inspector shall:” and insert “Protocol:”.
- On page 206, after first paragraph: Strike “7” before “The project owner shall:” and insert “Protocol:”.
- On page 209, last sentence: Strike “a)” before “The project owner shall:” and insert “Protocol:”.

### ***RELIABILITY***

- On page 215, under Water Availability: First sentence should read “Since the project operates as a simple cycle, the need for cooling water is minimal.”

### ***TRANSMISSION LINE SAFETY AND NUISANCE***

- On page 223, under TLSN-3: insert “or PG&E employee” after “qualified consultant”.

### ***TRANSMISSION SYSTEM ENGINEERING***

- On page 227, first sentence: Remove “cogeneration”.
- On page 233, under TSE-5 Verification d): Last sentence should read “Substitution of equipment and substation configurations shall be identified and justified by the project owner for CBO and CPM approval.”

### ***WORKER SAFETY***

- On page 237, first paragraph: Remove last sentence starting “Prior to construction and operation of the project....”
- On page 237, under Safety & Injury Prevention, both conditions: Change “review and approval of Cal/OSHA” to “review and comment of Cal/OSHA”.
- On page 237, under Safety & Injury Prevention, Operation, condition should reference Worker Safety-2, not Worker Safety-1 which only applies to construction.
- On page 238, last sentence: Add “and” before “turbine lubrication oil equipment” and remove “and cooling tower”.
- On page 239, under Condition: The condition should reference Worker Safety-1 and Worker Safety-2, not Worker Safety-3 which addresses noise issues.
- On page 240, under each condition: Change “review and approval of Cal/OSHA” to “review and comment of Cal/OSHA”.
- On page 242, under Worker Safety-2: Remove seventh line reading “Fire Protection and Prevention Program (8 CCR § 3221);”.
- On page 242, under Worker Safety-2: Insert after final sentence in Verification, “The Program shall incorporate comments from Cal/OSHA Consultation Service and the KCFD based on their reviews of the respective Program components.”
- On page 242, under Worker Safety-3, first sentence should read, “Prior to the start of project-related ground disturbing activities, the project owner shall submit to the CPM for review and approval a noise control program.”

- On page 243, insert the condition set forth below. This condition was originally set forth in the Staff Assessment and was modified to accommodate the applicant's timeline concerns. The revisions were filed with the Committee on January 8, 2002.

**Worker Safety-5:** The project owner shall prepare and submit to the CPM an Operations Fire Prevention Plan describing the onsite fire protection systems that will be provided in this project. Specifically, information must be included on employee alarm/communication system, portable fire extinguisher placement and operation, fixed fire fighting equipment placement and operation, fire control methods and techniques, hazardous materials and flammable and combustible liquid storage methods, methods for servicing and refueling vehicles and fire prevention training programs and requirements. Additionally, information shall be provided regarding the source of on-site firewater, including storage if applicable and fire department hook-ups.

**Verification:** At least sixty (60) days prior to the start of operation, the project owner shall submit to the CPM a copy of the final version of the Operations Fire Prevention Plan for review and approval. The KCFD shall also be provided a copy of the Plan for review and comment.

## **COMPLIANCE**

- On page 252, before the Facility Closure section: Please insert the following standard language setting forth certain construction milestones.

## **CONSTRUCTION MILESTONES**

The following is the procedure for establishing and enforcing milestones, which include milestone dates for pre-construction and construction phases of the project.

Milestones, and method of verification must be established and agreed upon by the project owner and the CPM no later than 30 days after project approval, the date of docketing. If this deadline is not met, the CPM will establish the milestones.

### **I. ESTABLISH PRE-CONSTRUCTION MILESTONES TO ENABLE START OF CONSTRUCTION WITHIN ONE YEAR OF CERTIFICATION**

1. Obtain site control.
2. Obtain financing.
3. Mobilize site.
4. Begin rough grading for permanent structures (start of construction).

### **II. ESTABLISH CONSTRUCTION MILESTONES FROM DATE OF START OF CONSTRUCTION**

1. Begin pouring major foundation concrete.
2. Begin installation of major equipment.

3. Complete installation of major equipment.
4. Begin gas pipeline construction.
5. Complete gas pipeline interconnection.
6. Begin T-line construction.
7. Complete T-line interconnection.
8. Begin commercial operation.

The CPM will negotiate the above-cited pre-construction and construction milestones with the project owner based on an expected schedule of construction. The CPM may agree to modify the final milestones from those listed above at any time prior to or during construction if the project owner demonstrates good-cause for not meeting the originally-established milestones. Otherwise, failure to meet milestone dates without a finding of good cause is considered cause for possible forfeiture of certification or other penalties.

III. A FINDING THAT THERE IS GOOD CAUSE FOR FAILURE TO MEET  
MILESTONES WILL BE MADE IF ANY OF THE FOLLOWING CRITERIA ARE MET:

1. The change in any milestone does not change the established commercial operation date milestone.
2. The milestone is changed due to circumstances beyond the project owner's control.
3. The milestone will be missed, but the project owner demonstrates a good-faith effort to meet the project milestone.
4. The milestone will be missed due to unforeseen natural disasters or acts of God which prevent timely completion of the milestones.
5. The milestone is missed due to requirements of the California ISO to maintain existing generation output.

If a milestone date cannot be met, the CPM will make a determination whether the project owner has demonstrated good cause for failure to meet the milestone. If the determination is that good cause exists, the CPM will negotiate revised milestones.

If the project owner fails to meet one or more of the established milestones, and the CPM determines that good cause does not exist, the CPM will make a recommendation to the Executive Director. Upon receiving such recommendation, the Executive Director will take one of the following actions.

1. Conclude that good cause exists and direct that revised milestones be established;  
or
2. Issue a reprimand, impose a fine, or take other appropriate remedial action and direct that revised milestones be established; or
3. Recommend, after consulting with the Siting Committee, that the Commission issue a finding that the project owner has forfeited the project's certification.

The project owner has the right to appeal a finding of no good cause, or any recommended remedial action to the full Commission.

cc: Henrietta POS list

**PHOTO #1**  
**VIEW FROM KOP4 LOOKING WEST ALONG SR 198**







**PHOTO #2**  
**VIEW FROM KOP4 LOOKING EAST ALONG SR 198**  
**TOWARD 25<sup>TH</sup> AVENUE**



